



An  
Bord  
Pleanála

## Inspector's Report

**ABP-317940-23**

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<b>Development</b>	Retention of café space, outdoor dining area and screen wall
<b>Location</b>	Hay Managers Inn, 17 <sup>th</sup> Lock, Landenstown, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	2372
<b>Applicant(s)</b>	Vincent Murphy
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant subject to 13 no. conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gemma Mullen
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> October 2003
<b>Inspector</b>	Bernard Dee

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the north side of the Grand Canal at the 17<sup>th</sup> Lock adjacent to Landenstown Bridge which is approximately 3km SE of Prosperous Co. Kildare. The appeal site is located on the north bank of the Grand Canal and is part of a collection of buildings that were probably lock keepers cottages with an associated group of farm buildings and coach house. There is a local road that runs between the appeal site and the canal that turns south over Landenstown Bridge at a 90° angle.
- 1.2. The café was previously a coach house and the eastern portion, c. 17m<sup>2</sup>, has been converted to café use and the remainder of the structure has been converted to residential use. An outdoor dining area approximately 80m<sup>2</sup> in area is also unauthorised development which this retention permission application seeks to regularise.
- 1.3. During the site visit on 13<sup>th</sup> October 2023 it was noted that work was on-going on 5 no. parking spaces to the rear of the café which were granted permission under Ref. 14/780.

## **2.0 Proposed Development**

- 2.1. Retention permission is sought for the café and outdoor dining area as described above. Retention permission is also sought to retain a screen wall which encompasses the outdoor dining area and is 1.7m in height and which is approximately 23.7m in length with a gate opening measuring 2.7m. The wall is constructed of concrete block and is cement rendered.
- 2.2. From the drawings submitted to the Planning Authority the café occupies the eastern end of the former coach house and the remainder of the structure (split level – single storey to front and two storey to rear) is in residential use and compliant with planning permission Ref. 14/780.
- 2.3. The outdoor dining area has a flagged surface and a tent provides shelter from the elements over a portion of the outdoor dining area.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission for the development to be retained was granted on 8<sup>th</sup> August 2023 subject to 13 no. conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- The Planner's Report on file contains Further Information and Clarification of Further Information requests relating to parking and sightlines at the appeal site and a Road Safety Audit (Stages 1 and 2).
- The Planner's Report notes that the retention application is an attempt to regulate the planning status of the site which is in breach of Conditions 1, 3 and 6 of Ref. 14/780.
- Neither EIA nor AA is required in relation to the development for which retention is sought.

##### **3.2.2. Other Technical Reports**

- Water Services - no objections subject to conditions.
- Area Engineer – recommended refusal for two reasons relating to sightlines and parking provision.
- Environment Section – no objections subject to conditions.
- Environmental Health Officer – no objections subject to conditions.
- Roads Department – requested Further Information.

##### **3.2.3. Prescribed Bodies**

- Irish Water - no objections subject to conditions.

##### **3.2.4. Observations**

- Submission received from Gemma Mullen who is the Third Party appellant in this case.

## 4.0 Planning History

### 4.1. On the Appeal Site

Ref.14/780 was a grant of permission on 20<sup>th</sup> January 2015 subject to 32 no. conditions for development consisting of extending and converting an existing outbuilding to form a two storey type dwelling converting attached single storey cottage to form a family flat, replacement of septic tank with an effluent treatment system and all ancillary site works.

Condition 6 states the following:

*The overall site shall be used for domestic related purposes only, and not for any commercial, workshop, or other non-domestic use.*

*Reason: In the interests of the proper planning and development of the area.*

### 4.2. In the Vicinity of the Site

No planning history proximate to the appeal site and relevant to the issues raised in the appeal.

## 5.0 Policy and Context

### 5.1. Development Plan

The Kildare County Development Plan 2023 - 2029 is the statutory plan for the area.

There are no specific policies or objectives for the type of development which is the subject of this appeal but Chapter 4 (Resilient Economy and Job Creation), Chapter 11 (Built and Cultural Heritage) and Chapter 15 (Development Management Standards) are of indirect relevance to this appeal.

### 5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- Ballynafagh Bog SAC (000391) is located 4.2km to the NW of the appeal site.
- Grand Canal pNHA (002104) is located to the south and adjacent to the appeal site.

### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The Third Party appeal in summary puts forward the following relevant planning grounds of appeal:

- The screen wall currently in place is far higher than the wall it replaced which was demolished during construction works. The replacement wall is also longer and not in the same position as the previous wall on site.
- The Area Engineer rightly recommended refusal of this development due to dangerous sightlines at the junction of the public road and private lane and also due to the deficiency in parking provision in the proposed scheme.
- Revised plans show 5 no. parking spaces but the family of the applicant own 5 no. cars which will effectively remove any guest parking facilities.
- In the absence of parking to the rear of the café cars will park on the road beside the canal and will constitute a traffic hazard.
- Customers of the café are not pedestrians and cyclists as stated by the applicant but rather residents of nearby villages who drive to the café thereby exacerbating the traffic hazard at this location.
- The junction of the public road with the private lane with its inadequate sightlines and the increased traffic due to the presence of the café has increased the traffic hazard at this location.
- The large screen wall has had an adverse visual impact on an area characterised by natural beauty.

## **7.0 Responses to Appeal**

7.1. By letter dated 5<sup>th</sup> September 2023 the Board sought responses from the First Party and the Planning Authority and these are summarised below.

7.2. The First Party in summary makes the following points:

- The café has received broad local support by locals and users of the adjacent Grand Canal greenway.
- The retention application has addressed all the issues raised in the warning letter regarding unauthorised works.
- A Road Safety Audit was carried out and its recommendations were approved by the Transport Department of Kildare County Council and the applicant is happy to implement said recommendations.
- The café is not a destination café but only serves passing trade utilising the greenway and persons using the canal itself for water based activities

7.3. The Planning Authority in summary makes the following points:

- The Planning Authority has reviewed the content of the Third Party appeal but does not comment further on same.
- The Planning Authority refers the Board to the reports on file in the original assessment of the application which resulted in a positive decision.

## **8.0 Assessment**

8.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

8.2. The primary planning issue therefore is the issue of traffic hazard and a secondary issue is whether or not a café use at this location is appropriate. The issue of AA Screening is also addressed in this assessment.

8.3. Traffic Hazard

- 8.3.1. It is the appellants case (and also the Area Engineer prior to Further Information and Clarification of Further Information was received by the Planning Authority) that the location and height of the screen wall as constructed led to insufficient sightlines at the junction of the public road and the private lane and that this situation constituted a traffic hazard at this location.
- 8.3.2. There is no doubt that the current screen wall is higher and encompasses more of the applicant's land than the previous stone wall did. That said, and having regard to the Road Safety Audit carried out by Bruton Consulting Engineers dated July 2023, and to my own observations on site, I feel that the sightlines are adequate given the relatively low levels of traffic at this location and the fact that it is possible to drive out onto the public road to view traffic from the right (west) without placing oneself in danger.
- 8.3.3. Exiting from the private lane, traffic coming from the left (east) is visible coming over the bridge which has a natural effect of slowing traffic from this direction. The correct placement of stop signs and lines should address any traffic hazard at this location and I would recommend to the Board that the screen wall be granted retention permission.
- 8.3.4. Work is on-going on the 5 no. parking spaces to the rear of the café on foot of permission Ref. 14/780.

#### 8.4. Café Use

- 8.4.1. The use of part of the former coach house as a café is to my mind an appropriate development at a site adjacent to a major walking, cycling and general amenity area.
- 8.4.2. There is no seating within the café and therefore the outdoor seating area, which will also accommodate 10 no. bicycle parking spaces, could be considered integral to the café use within the coach house.
- 8.4.3. Tourism development of this small scale and low impact is to be preferred over large scale environmentally damaging tourism developments. As such I would recommend to the Board that the café use and associated dining area be granted retention permission.

#### 8.5. AA Screening



- 8.5.1. Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

I recommend that retention permission be granted for the reasons and considerations set out below and subject to the following conditions.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Kildare Development Plan 2023-2029; it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the visual or residential amenities of the area, nor by virtue of the presence of a new screen wall constitute a traffic hazard for users of the road network in the area of the appeal site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 27<sup>th</sup> January 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Details of road signage and line painting, warning the public of the junction with the private road and of proposals for traffic management at the entrance to said junction, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of traffic safety.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Bernard Dee**  
**Planning Inspector**

**18<sup>th</sup> October 2023**